

LFC Requester:**Theresa Rogers****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*Original ☒ Amendment ☐
Correction ☐ Substitute ☐**Date** 1/27/2016**Bill No:** HB 235**Sponsor:** Rep. Antonio "Moe" Maestas**Agency Code:** 305**Short** SENTENCING FOR USE**Person Writing** Greer Rose, AAG**Title:** OF FIREARMS**Phone:** 505-222-9034 **Email** grose@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY16 | FY17 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY16 | FY17 | FY18 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY16 | FY17 | FY18 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 100
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

HB 235 amends Section 31-18-16 by increasing the "firearm enhancement" penalty for use of a firearm during a felony from one year for a first violation to three years. Similarly, the penalty for a second or subsequent use of a firearm during the commission of a felony would increase from three years to six years. This amendment removes the provision that makes these enhancements mandatory time, and also removes the discretionary ability of the court to impose firearm enhancements against serious youthful and youthful offenders.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

While this bill increases the potential enhancements for felons using firearms during their crimes, it removes the deterrent effect of mandatory time, which the current statute provides. The intent of the bill seems to be to create tougher penalties, but may actually unintentionally weaken the current firearm enhancement provision.

PERFORMANCE IMPLICATIONS N/A**ADMINISTRATIVE IMPLICATIONS N/A****CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 100 also proposes amendments to Section 31-18-16. That bill proposes a first time firearm enhancement of five years, and a second or subsequent firearm enhancement of seven years. That bill does not remove the provision making this enhancement mandatory, and allows for it to be imposed upon serious youthful offenders or youthful offenders at the discretion of the court.

TECHNICAL ISSUES N/A

OTHER SUBSTANTIVE ISSUES N/A

ALTERNATIVES N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status Quo

AMENDMENTS N/A